

Executive Summary – Enforcement Matter – Case No. 57289
CEMENTOS READY-MIX LLC
RN102195732
Docket No. 2019-0246-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Cementos Ready Mix LLC, 3880 North Ogilvy Avenue, Odessa, Ector County

Type of Operation:

Concrete batch plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: August 30, 2019

Comments Received: No

Penalty Information

Total Penalty Assessed: \$8,250

Amount Deferred for Expedited Settlement: \$1,650

Total Paid to General Revenue: \$275

Total Due to General Revenue: \$6,325

Payment Plan: 23 payments of \$275 each

Compliance History Classifications:

Person/CN - Unclassified

Site/RN - Unclassified

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: December 11, 2018

Date(s) of NOE(s): February 1, 2019

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CEMENTOS READY-MIX LLC
RN102195732
Docket No. 2019-0246-AIR-E

Violation Information

1. Failed to maintain a copy of the permit along with records containing the information and data sufficient to demonstrate compliance. Specifically, on December 14, 2018, TCEQ staff requested a current copy of New Source Review ("NSR") Permit No. 5809A and records of production, maintenance, and operating hours of the Plant, but only the General Conditions ("GC") for NSR Permit No. 5809A was provided [30 TEX. ADMIN. CODE § 116.115(b)(2)(E)(i), NSR Permit No. 5809A, GC No. 7, and TEX. HEALTH & SAFETY CODE § 382.085(b)].
2. Failed to pave Plant roads with a cohesive hard surface and/or sprinkle with water and/or other dust suppressants. Specifically, TCEQ staff documented that the Plant roads were not paved, were dusty, and had pot holes [30 TEX. ADMIN. CODE § 116.115(c), NSR Permit No. 5809A, Special Conditions ("SC") No. 3.A, and TEX. HEALTH & SAFETY CODE § 382.085(b)].
3. Failed to maintain capture and abatement equipment in good working order and operating properly during normal facility operations. Specifically, TCEQ staff documented that the truck drop point was not equipped with a water fog ring to control dust emissions [30 TEX. ADMIN. CODE § 116.115(b)(2)(G) and (c), NSR Permit No. 5809A, GC No. 9 and SC No. 3.F, and TEX. HEALTH & SAFETY CODE § 382.085(b)].
4. Failed to install a visible and/or audible warning device on each cement/fly ash silo. Specifically, TCEQ staff observed that the cement/fly ash silo was not equipped with a visible and/or audible warning device [30 TEX. ADMIN. CODE § 116.115(c), NSR Permit No. 5809A, SC No. 3.D, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

a. Within 30 days:

- i. Begin maintaining at the Plant a copy of NSR Permit No. 5809A along with records for the production, maintenance, and operating hours sufficient to demonstrate compliance with the permit;

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- ii. Pave the Plant roads with a cohesive hard surface and/or sprinkle with water and/or other dust suppressants;
 - iii. Control the truck drop point with a water fog ring having low velocity fog nozzles spaced to create a continuous fog curtain that controls dust emissions; and
 - iv. Install a visible and/or audible warning device on each cement/fly ash silo.
- b. Within 45 days, submit written certification to demonstrate compliance with a.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Richard Garza, Enforcement Division,
Enforcement Team 4, MC 219, (512) 239-2697; Michael Parrish, Enforcement Division,
MC 219, (512) 239-2548

Respondent: Elias Rodriguez, President, CEMENTOS READY-MIX LLC, 11041 West
42nd Street, Odessa, Texas 79764

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned PCW	4-Feb-2019	Screening	13-Feb-2019	EPA Due	
		5-Jun-2019				

RESPONDENT/FACILITY INFORMATION

Respondent	CEMENTOS READY-MIX LLC		
Reg. Ent. Ref. No.	RN102195732		
Facility/Site Region	7-Midland	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	57289	No. of Violations	4
Docket No.	2019-0246-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Richard Garza
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$8,250**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **0.0%** Adjustment **Subtotals 2, 3, & 7** **\$0**

Notes No adjustment for compliance history.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts **\$1,482**
Estimated Cost of Compliance **\$31,500**

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$8,250**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** Adjustment **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$8,250**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$8,250**

DEFERRAL **20.0%** Reduction Adjustment **-\$1,650**

Reduces the Final Assessed Penalty by the indicated percentage.

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$6,600**

Screening Date 13-Feb-2019

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PCW

Respondent CEMENTOS READY-MIX LLC

Policy Revision 4 (April 2014)

Case ID No. 57289

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102195732

Media Air

Enf. Coordinator Richard Garza

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 13-Feb-2019
Respondent CEMENTOS READY-MIX LLC
Case ID No. 57289
Reg. Ent. Reference No. RN102195732
Media Air

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PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Enf. Coordinator Richard Garza
Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 116.115(b)(2)(E)(i), New Source Review ("NSR") Permit No. 5809A, General Conditions ("GC") No. 7, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to maintain a copy of the permit along with records containing the information and data sufficient to demonstrate compliance. Specifically, on December 14, 2018, TCEQ staff requested a current copy of NSR Permit No. 5809A and records of production, maintenance, and operating hours of the Plant, but only the GC for NSR Permit No. 5809A was provided.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

Greater than 70% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 4

61 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$5,000

Four single events are recommended (one for each set of records).

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$56

Violation Final Penalty Total \$5,000

This violation Final Assessed Penalty (adjusted for limits) \$5,000

Economic Benefit Worksheet

Respondent CEMENTOS READY-MIX LLC
Case ID No. 57289
Reg. Ent. Reference No. RN102195732
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$1,500	11-Dec-2018	11-Sep-2019	0.75	\$56	n/a	\$56
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to begin maintaining at the Plant a copy of the NSR Permit No. 5809A along with records for the production, maintenance, and operating hours sufficient to demonstrate compliance with the permit. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$56

Screening Date 13-Feb-2019

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PCW

Respondent CEMENTOS READY-MIX LLC

Policy Revision 4 (April 2014)

Case ID No. 57289

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102195732

Media Air

Enf. Coordinator Richard Garza

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), NSR Permit No. 5809A, Special Conditions ("SC") No. 3.A, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to pave Plant roads with a cohesive hard surface and/or sprinkle with water and/or other dust suppressants. Specifically, TCEQ staff documented that the Plant roads were not paved, were dusty, and had pot holes.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

64 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$1,250

One quarterly event is recommended from the December 11, 2018 investigation date to the February 13, 2019 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$375

Violation Final Penalty Total \$1,250

This violation Final Assessed Penalty (adjusted for limits) \$1,250

Economic Benefit Worksheet

Respondent CEMENTOS READY-MIX LLC
Case ID No. 57289
Reg. Ent. Reference No. RN102195732
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	11-Dec-2018	11-Sep-2019	0.75	\$375	n/a	\$375

Notes for DELAYED costs

Estimated cost to pave the Plant roads with a cohesive hard surface and/or sprinkled with water and/or other dust suppressants. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$375

Screening Date 13-Feb-2019

Docket No. 2019-0246-AIR-E

PCW

Respondent CEMENTOS READY-MIX LLC

Policy Revision 4 (April 2014)

Case ID No. 57289

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102195732

Media Air

Enf. Coordinator Richard Garza

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 116.115(b)(2)(G) and (c), NSR Permit No. 5809A, GC No. 9 and SC No. 3.F, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to maintain capture and abatement equipment in good working order and operating properly during normal facility operations. Specifically, TCEQ staff documented that the truck drop point was not equipped with a water fog ring to control dust emissions.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

64 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$1,250

One quarterly event is recommended from the December 11, 2018 investigation date to the February 13, 2019 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$525

Violation Final Penalty Total \$1,250

This violation Final Assessed Penalty (adjusted for limits) \$1,250

Economic Benefit Worksheet

Respondent CEMENTOS READY-MIX LLC
Case ID No. 57289
Reg. Ent. Reference No. RN102195732
Media Air
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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Delayed Costs

Equipment	\$10,000	11-Dec-2018	11-Sep-2019	0.75	\$25	\$500	\$525
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to control the truck drop point with a water fog ring having low velocity fog nozzles spaced to create a continuous fog curtain that controls dust emissions. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$525

Screening Date 13-Feb-2019
Respondent CEMENTOS READY-MIX LLC
Case ID No. 57289
Reg. Ent. Reference No. RN102195732
Media Air

Docket No. 2019-0246-AIR-E

PCW

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

Enf. Coordinator Richard Garza

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), NSR Permit No. 5809A, SC No. 3.D, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to install a visible and/or audible warning device on each cement/fly ash silo. Specifically, TCEQ staff observed that the cement/fly ash silo was not equipped with a visible and/or audible warning device.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				3.0%
Potential			x	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$24,250

\$750

Violation Events

Number of Violation Events 1 64 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$750

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$525

Violation Final Penalty Total \$750

This violation Final Assessed Penalty (adjusted for limits) \$750

Economic Benefit Worksheet

Respondent CEMENTOS READY-MIX LLC
Case ID No. 57289
Reg. Ent. Reference No. RN102195732
Media Air
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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Delayed Costs

Equipment	\$10,000	11-Dec-2018	11-Sep-2019	0.75	\$25	\$500	\$525
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to install a visible and/or audible warning device on each cement/fly ash silo. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$525



Compliance History Report

Compliance History Report for CN604515015, RN102195732, Rating Year 2018 which includes Compliance History (CH) components from September 1, 2013, through August 31, 2018.

Customer, Respondent, or Owner/Operator:	CN604515015, CEMENTOS READY-MIX LLC	Classification: UNCLASSIFIED	Rating: -----
Regulated Entity:	RN102195732, CEMENTOS READY MIX	Classification: UNCLASSIFIED	Rating: -----
Complexity Points:	6	Repeat Violator:	NO
CH Group:	10 - Cement and Concrete Product Manufacturing		
Location:	PORTABLE 3880 N OGILVY AVENUE ODESSA, ECTOR COUNTY, TX		
TCEQ Region:	REGION 07 - MIDLAND		
ID Number(s):			
AIR NEW SOURCE PERMITS PERMIT 5809A	AIR NEW SOURCE PERMITS ACCOUNT NUMBER 905809G		
AIR NEW SOURCE PERMITS AFS NUM 4877700134	AIR EMISSIONS INVENTORY ACCOUNT NUMBER 905809G		
Compliance History Period:	September 01, 2013 to August 31, 2018	Rating Year: 2018	Rating Date: 09/01/2018
Date Compliance History Report Prepared:	February 13, 2019		
Agency Decision Requiring Compliance History:	Enforcement		
Component Period Selected:	February 13, 2014 to February 13, 2019		
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.			
Name:	Richard Garza	Phone:	(512) 239-2697

Site and Owner/Operator History:

- | | |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period? | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CEMENTOS READY-MIX LLC
RN102195732

§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2019-0246-AIR-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding CEMENTOS READY-MIX LLC (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a concrete batch plant located at 3880 North Ogilvy Avenue in Odessa, Ector County, Texas (the "Plant"). The Plant consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$8,250 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$275 of the penalty and \$1,650 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order.

The remaining amount of \$6,325 of the undeferred penalty shall be paid in 23 monthly payments of \$275 each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If the Respondent fails to comply with the payment requirements of this Order, including the payment schedule, the Executive Director may accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately

due and payable without demand or notice. The Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms and conditions of this Order and the Executive Director may demand payment of all or part of the deferred penalty amount.

5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.

II. ALLEGATIONS

During an investigation conducted on December 11, 2018, an investigator documented that the Respondent:

1. Failed to maintain a copy of the permit along with records containing the information and data sufficient to demonstrate compliance, in violation of 30 TEX. ADMIN. CODE § 116.115(b)(2)(E)(i), New Source Review ("NSR") Permit No. 5809A, General Conditions ("GC") No. 7, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, on December 14, 2018, TCEQ staff requested a current copy of NSR Permit No. 5809A and records of production, maintenance, and operating hours of the Plant, but only the GC for NSR Permit No. 5809A was provided.
2. Failed to pave Plant roads with a cohesive hard surface and/or sprinkle with water and/or other dust suppressants, in violation of 30 TEX. ADMIN. CODE § 116.115(c), NSR Permit No. 5809A, Special Conditions ("SC") No. 3.A, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, TCEQ staff documented that the Plant roads were not paved, were dusty, and had pot holes.
3. Failed to maintain capture and abatement equipment in good working order and operating properly during normal facility operations, in violation of 30 TEX. ADMIN. CODE § 116.115(b)(2)(G) and (c), NSR Permit No. 5809A, GC No. 9 and SC No. 3.F, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, TCEQ staff documented that the truck drop point was not equipped with a water fog ring to control dust emissions.

4. Failed to install a visible and/or audible warning device on each cement/fly ash silo, in violation of 30 TEX. ADMIN. CODE § 116.115(c), NSR Permit No. 5809A, SC No. 3.D, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, TCEQ staff observed that the cement/fly ash silo was not equipped with a visible and/or audible warning device.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: CEMENTOS READY-MIX LLC, Docket No. 2019-0246-AIR-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order:
 - i. Begin maintaining at the Plant a copy of NSR Permit No. 5809A along with records for the production, maintenance, and operating hours sufficient to demonstrate compliance with the permit;
 - ii. Pave the Plant roads with a cohesive hard surface and/or sprinkle with water and/or other dust suppressants;
 - iii. Control the truck drop point with a water fog ring having low velocity fog nozzles spaced to create a continuous fog curtain that controls dust emissions; and
 - iv. Install a visible and/or audible warning device on each cement/fly ash silo, in accordance with NSR Permit No. 5809A.
 - b. Within 45 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No.

2.a. The certification shall be signed by the Respondent and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Air Section Manager
Midland Regional Office
Texas Commission on Environmental Quality
9900 West IH-20, Suite 100
Midland, Texas 79706

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Plant operations referenced in this Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.

7. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

Pam Sami
For the Executive Director

7/24/2021
Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Elias Rodriguez
Signature

5-6-2020
Date

Elias Rodriguez
Name (Printed or typed)

President
Title

Authorized Representative of
CEMENTOS READY-MIX LLC

☐ If mailing address has changed, please check this box and provide the new address below: